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**IN THE**  
**Supreme Court of the United States**  
October Term, 1978

No. .... **78-809**

VENOLA WALTON,

*Appellant,*

-v.-

SMALL BUSINESS ADMINISTRATIONS,

*Appellee.*

*On Appeal from the United States Court of Appeals  
for the Second Circuit*

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**JURISDICTIONAL STATEMENT**

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VENOLA WALTON  
*Plaintiff-Appellant pro se*  
539 West 148th Street  
New York, N.Y. 10031

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JURISDICTIONAL STATEMENT

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Venola Walton, plaintiff-appellant, appeals from the order of the United States Court of Appeals, Second Circuit, entered June 19, 1978. The order, judgment was affirmed on the opinion of the United States District Court, Southern District of New York (entered on January 23, 1978, pursuant to its memorandum decision). Thereafter, a petition for a rehearing was timely filed in the United States Court of Appeals, Second Circuit, which petition was denied and order entered thereon August 29, 1978, and I submit this jurisdictional statement to show that the Supreme Court of the United States has jurisdiction over this appeal, and that a substantial question is presented.



### Opinions Below

The findings of the United States Government Small Business Administration, Washington, D. C. 20416, dated October 7, 1975. It was pursuant to a complaint, Venola Walton, filed with the Small Business Administrator, Mr. Thomas S. Kleppe, on August 11, 1975, and is reported in the appendix hereto at 1a-21a.

The opinion of the United States District Court, Southern District of New York, memorandum decision and order judgment, is reported in the appendix hereto at 22a-25a.

The opinion of the United States Court of Appeals for the Second Circuit, judgment affirmed on the opinion of the U. S. District Court, Southern District of New York, is reported in the appendix hereto at 26a.

The opinion of the United States Court of Appeals, Second Circuit, a petition for rehearing is reported in the appendix hereto at 27a.

### JURISDICTION

This suit is a civil action by the plaintiff-appellant brought under the Federal Tort Claims Act, Title 4, Sec. 410-411, Federal Civil Rights Act, Chapter 7 (42 U.S.C. 1985); Supreme Court Practice, Sec. 2-5(1), to set aside an order, judgment of the United States District Court dismissing my case, entered January 23, 1978, and was upheld by the United States Court of Appeals, entered August 29, 1978. A notice of appeal was filed in that court on September 25, 1978. The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by Title 28 United States Code 1252.

### Statutes Involved

This case involves the first part of the 14th Amendment of the Constitution of the United States, which provides as follows:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

This case also involves the Federal Civil Rights Act. The Federal Tort Claims Act, Title 4, short title, F.T.C.A., page 843:

### Federal Tort Claims Act.

#### *Part 3—Suits on Tort Claims against the United States*

"Sec. 410—(a) Subject to the provisions of this title, the United States District Court wherein the plaintiff is resident, or wherein the act or omission complained of occurred, including the United States district courts for the territories and possessions of the U.S., sitting with or without a jury, shall have exclusive jurisdiction to hear, determine and render judgment on any claim against the United States, for money only occurring on and after January 1, 1945, on account of damage to or loss of property or on account of personal injury or death caused by the negligent or wrongful act or omission of any

employee of the government while acting in the scope of his office, under circumstances where the U.S. if a private person would be liable to the claimant for such damages, . . . Subject to the provisions of this title, the United States shall be liable in respect of such claims as a private individual under like circumstances, except that the United States shall not be liable for interest prior to judgment."

### **Procedure**

Sec. 411—In actions under this part, the forms of process, writs, pleadings and motions and the practice and procedure, shall be in accordance with the Rules promulgated by the Supreme Court pursuant to the Act of June 19, 1934 (48 Statute 1064) and the same provision for counterclaim and set-off for interest upon judgment.

### **The Federal Civil Rights Act (42 USC 1985) Chapter 7**

The purpose of this statute was to give a cause of action to individuals deprived of their federal rights by conspiracies of either public officials or private persons.

95(3) — It gives to every citizen involved in litigation the right to be free from a conspiracy

"for the purpose of impeding, hindering, obstructing, or defeating in any manner the due course of justice in any State or Territory, with intent to deny to any citizen equal protection of the laws, or to injure him or his property, for lawful enforcing or attempting to enforce, . . . of any persons, or class of persons, to the equal protection of the laws."

(9815-97)(3) "Equality," — the right to be free from a denial of equal protection in employment and business opportunities is protectable under this subsection. To illustrate: "An action was held to lie when city officials intentionally discriminated against a Negro liquor license holder and revoked his license."

The Circuit Court of Appeals has also held that an architect stated a cause of action under this subsection when he alleged a conspiracy of city officials subjecting him to unlawful discrimination in regularly and deliberately denying his application.

The Court of Appeals ruled there was no cause of action when the defendant in a civil suit had allegedly misappropriated exhibits, introduced perjured testimony and made untrue and slanderous statements about the plaintiff.

1. Federal Tort Claims Act Title 4, Sec. 403(b).
2. Moore's Federal Practice Vol. 6, Part 2, Rule 56-26, An Act of (CA3d Congress 1974) 490 F2d 1360-1371 n6.
3. Federal Rules of Civil Procedure, Title 28 U.S.C.A. Rule 38(a).
4. U.S. Code Annotated, Title 28, Federal Rules of Civil Procedure, Rule 15(a), (b), (c).
5. USC-701, Title 5, Application; Definitions.
6. USC Annotated, Title 15, 634, Administrative powers.
7. U.S. Code Annotated, Title 28, Judiciary—Judicial Procedure 2281-2500, Sec. 2403 p. 389.
8. 28 USC 1252.
9. Supreme Court Practice, Third Edition, Sect. 2-5.

### Question Presented

Whether the Small Business Administration intentionally discriminated against me, denied me an economic opportunity loan, engaged in a conspiracy and fraud, closed my business, prevented me from economic growth, and whether, where this was a Black owned business, and had met all of the Small Business Administration requirements and standards, was purposely denied all of the opportunities and advantages and protection provided for, by, the laws, to improve and expand my business. And where this case involves important Federal and Constitutional questions, and genuine issues of material fact, was subject to summary dismissal, and whether the District Court lack subject matter jurisdiction over this claim, and whether the Administrator exercised his authority in the interest of my business after having knowledge of agency actions.

### Statement of the Questions

Plaintiff is appealing this case on the original complaint and record filed in the District Court on July 20, 1976. See Plaintiff's affidavit in opposition to defendant's motion to dismiss her case filed June 15, 1977 and plaintiff's brief and joint appendix filed in the United States Court of Appeals on April 21, 1978 and Petition for Rehearing filed June 30, 1978, which will show that Plaintiff presented substantial argument and evidence to sustain her position. The District Court's Memorandum Decision has not presented one piece of evidence to sustain its decision.

Plaintiff-appellant, a Black woman who had an established dress factory in the garment district at 347 West 39th Street, employing 20 people, applied for an Economic Opportunity loan for \$25,000.00. The Small

Business Administration granted me a \$6,000.00 loan in November, 1964. Business showed growth and a need for expansion and improvement in my business operation. In June, 1965 I applied for an Economic Opportunity Loan.

I spoke to Mr. Gordon, an S.B.A. officer, who was assigned to visit my shop and aid me with problems, who advised that I have my jobber write a letter to the S.B.A. to assure them that I would have sufficient income to repay the loan. The letter was sent, the application was completed. I am waiting for them to make the loan.

After waiting so long I called the SBA's office to check, and speed them up. Nothing had been done. My application was just lying there. They told me I had to get another contract. I questioned them, "Why should I get another contract when I have a jobber who has committed himself to the Small Business Administration to supply me with continuous work, to the capacity of my shop."

He said, "Well you will have to get another jobber." I then secured another contract from Anne Fogarty at 550 7th Avenue. App. 29a-30a.

When they were ready to send the work into my shop I was behind in my rent at that point. The Small Business Administration said we can't let you take the work, because the landlord will lock you out, and the company would not be able to get the work to fill their orders. The SBA had me get a letter from my landlord to grant me time for them to process my application and for me to work. My landlord granted me generous time, but the SBA still would not let the work come into my shop. Landlord's letter App. at 31a.

The Internal Revenue Service called and told me they were coming to put a seal on the door that same day, which they did.

I was unaware that the Small Business Administration was not acting in good faith up to this point. When they had demanded that I get a new contract and when the work was ready, they would not let me take the work, and



when my landlord granted me over two months for me to work, and for them to process the loan, and then they wouldn't let the work come into my shop, and neither did they process the loan.

Instead, the Internal Revenue Service was called to put a seal on my door.

Then I knew it was the Small Business Administration that caused all of my so-called problems, they created them and aggravated them. They invaded the privacy of my business under false pretense as to aid me with problems while all the time they were engaged in a conspiracy and fraud to close my business. The SBA granted me the token loan of \$6,000.00 and just three months later the SBA had placed false information in my file — a delinquent notice to set up my SBA file to make sure I wouldn't get any financial assistance from them or any other source. 32a.

However, I didn't know that false document and others were in my file until I filed a complaint with the SBA, Administrator Mr. Kleppe in Washington, D.C., Department of Discrimination. They investigated, and sent me their findings. I informed them that their findings had many false statements and had omitted many facts that needed to be brought out for justice to be done and I requested a hearing or appointment to present the same.

The SBA requested that I send them what facts I alleged as false and what proof I had. Several letters were transmitted between us. They were requesting that I send, and I was requesting an appointment for a hearing to submit my proof in person.

I refused to send my proof until I was allowed to review my file in the SBA's New York office. I reviewed certain documents in my file and was given copies of them. Then, I prepared the requested information for the SBA in Washington, and sent it to them.

Thereafter, they closed my case and would not

reopen it. I had no other recourse, but to file a suit in the Federal District Court.

My rights were abused in the District Court. I demanded a trial by jury as provided for under Rule 38. My request was completely ignored. The Court put me through undue stress and strain, trying to present my case on paper and put me to a disadvantage, a pro se having to try and deal with a maximum of laws and statutes under which this case was being conducted.

The Court allowed the illegal filing of motions and the issuing of orders and unlawfully brought my case under the statute of limitations and dismissed it.

I appealed to the United States Court of Appeals, and they upheld the District Court's decision.

### STATEMENT OF THE CASE

The Small Business Administration intentionally discriminated against me, engaged in conspiracy and fraud to prevent a black woman from operating a successful business, participating in the economic growth of our country. The defendant's actions raise questions for review.

1. Why did the Small Business Administration demand that I get another jobber, when I had a jobber supplying me with work to the capacity of my shop?

2. Why did they hold my application for six months and not process the loan?

3. Why, after demanding that I get another jobber, when the work was ready to come into my shop, the Small Business Administration would not let the work come into my shop?

4. Why, when my landlord wrote the SBA a letter, granting me generous time, for me to take the work in, and for the SBA to process the loan, they still did not allow the work to come into my shop? Nor process the loan.

5. There had not been any delinquents in the payments of my loan notes to SBA; why did the defendants, Small Business Administration, place a delinquent notice in my SBA file just three months after they had granted me the \$6,000. loan?

6. And why did that notice remain in my SBA file for 10 years?

7. And, why was it used by the Administrative office, given as a reason why my 1965 loan had been denied?

This action involves important Constitutional and public questions and requires the jurisdiction of this Court.

Whether the District Court lacked subject matter jurisdiction over claims.

Whether the Small Business Administration should have been granted leave to amend its answer and counterclaim to assert the statute of limitations as an affirmative defense, seven months after the first filing and shortly after moving to dismiss, and whether this case was subject to summary dismissal.

Whether the administrative office exercised its authoritative powers in the interest of my business, and whether I was given equal protection and opportunity as provided under the Economic Opportunity Act of 1964. The Small Business Administration purposely denied me the opportunities and advantages that were available for minority, or just small businesses, during that period.

#### THE QUESTIONS ARE SUBSTANTIAL

The questions are so substantial because the plaintiff-appellant had an established business, employing 20 people. I had collateral, machines, equipment, supplies, etc. and "I was a black" woman, a minority, who was denied an economic opportunity loan to expand and improve my business in 1965. In spite of the 1964

Economic Opportunity Act, that had as one of its primary goals the preservation of free competitive enterprises in order to strengthen the nation's economy, the Small Business Administration held my application for a loan 6 months, and never processed it. And during the course of that time, the SBA tortiously interfered with my business; they demanded I get a new contract in 1965, and after obtaining the contract, they would not allow the work to come into my shop. 29a-30a.

Their interference had caused me not to be able to meet my obligations; I owed rent. However, my landlord granted me generous time for the Small Business Administration to process the loan and for me to take the work in. But the SBA still would not allow the work to come into my shop. 29a-30a

The question is so substantial because my federal and Constitutional rights have been violated. I was denied the right to operate my business; I was denied the right to equal opportunities and protection provided for by the laws.

The 14th Amendment to the Constitution of the United States provides for these rights and privileges, and they shall not be abridged.

The question is substantial because I am a productive citizen. I was producing, I was contributing to the economic growth of our country. I was giving jobs to people and had a job for myself.

I was unlawfully cut off, denied the right to participate in our free enterprise system, because my skin is black.

I filed a complaint with the Small Business Administrator, Mr. Thomas S. Kleppe on August 11, 1975. They investigated, and sent me their findings.

I informed them that their findings had many false statements and had omitted many facts that needed to be brought out for justice to be done. They, then, requested

that I send them what facts I alleged as false and what proof I had of such. I refused to send them my proof. I requested a hearing to present it in person. The Administrator's office ignored my request, after several letters were transmitted between us.

I then went to the Civil Liberty Union. I told them what had transpired theretofore, and told them I would not send them any proof unless I am able to go into the Small Business Administration office and review my file. It was through their office that an appointment was made for me to review my file.

I went into the SBA's office and reviewed that information and was given copies of it. Washington's SBA office closed my case after an appointment was made for me to review my file. I prepared the information the SBA in Washington had requested and mailed it to them and requested that they reopen my case.

They refused to reopen my case, stating that they found no wrongdoings by the SBA in New York. The question is substantial because this was the information the SBA in Washington had sent me in their findings, and gave as the reason my loan was denied in 1965. Complaint, and letters are printed herein as Appendix 1, pages 1a-21a (SBA Washington's findings).

I had no other recourse but to file suit in the Federal District Court.

The questions are so substantial because when I filed this case in the District Court, I demanded a trial by jury as provided for in Title 28 U.S.C.A. Rule 38. *The court denied my request, and further, granted the defendant's motion for leave to amend its answer and counterclaim to assert the Statute of Limitations as an affirmative defense, seven months after his first answer.*

Rule 56 holds in every instance that the record must be factually adequate, that there is no genuine issues of material fact, for the granting of summary judgment. Rule

56-(58)—The Statute—a defending party may move for summary judgment on the basis of the statute of limitations. There is authority that if the defendant first files an answer and fails to plead the statute of limitations, and then later moves for summary judgment on the basis of limitation, his motion must be denied on the theory that he has waived the defense and cannot therefore avail himself of it unless relieved by appropriate actions.

Summary judgment should have been denied. Rule 56, page 738, states while a defendant would be entitled to summary judgment on the basis of one good affirmative defense that does not involve a triable issue of fact, summary judgment must be denied where there is a triable issue of fact in connection with each affirmative defense upon which the defendant's motion is predicated.

The defendant-appellee showed prejudice and contempt when he states: "In this case, Plaintiff, Venola Walton, a black woman, charges that the Small Business Administration, has denied her the opportunity to make a living since 1965 and seeks \$500,000 in compensatory damages for each year of this alleged deprivation, or approximately \$6 million."

The plaintiff, Venola Walton, takes no pleasure in having to sue the Small Business Administration for its injustice to me and its discriminatory practices that led to this action.

I would much rather have been respected and treated as a full citizen of these United States and given the opportunity to work for it, to have been allowed to remain a part of our free enterprise system; to participate in the strength of our country's economy. The Small Business Administration denied me these opportunities, when they intentionally and wrongfully discriminated against me, and used fraud to preclude my business.

15 U.S.C. 701-37 the statute precluding review generally.



Judicial review will not be cut off unless clear and convincing evidence discloses that Congress has both considered and prohibited judicial review of agency action in question.

A statute must demonstrate clear and convincing evidence of an intent to preclude review before courts will cut off an aggrieved party's right to be heard. Withdrawal statutes comes into play when there has been a clear departure from statutory authority, and expose the offending agency to review of administrative action otherwise made reviewable by statute.

The defendant was advised to use several laws, rules, and statutes to prevent my case from being heard, and, if heard, the court would be precluded from granting injunctive relief. The SBA is engaged in a conspiracy to wrongfully and unjustly dismiss my case.

It is my federal and constitutional right to a trial by jury. I have a right to be heard.

## CONCLUSION

Plaintiff should be awarded the damages requested in her complaint, in that she was discriminated against and suffered severe, business economic and social injuries and injustices were imposed upon her as a black woman, and false information was placed in her SBA file preventing her from enjoying the full economic benefits to which the law provides.

Also, defendant was wrongfully allowed to amend his answer to assert the Statute of Limitations, barring any part of plaintiff's claim in 1965 on.

Therefore, plaintiff is asking this Court to order the Small Business Administration to pay her \$500,000 for each year she has been:

1. Denied the opportunity to earn a living;
2. Denied the opportunity to participate in our economic struggle, by making jobs for others;
3. Denied the opportunity to participate in our free enterprise system;
4. To pay for the obstruction of my livelihood.

Dated: November 15, 1978

Respectfully submitted,

Venola Walton,  
*Plaintiff-Appellant Pro Se*



**APPENDIX 1****COMPLAINT FILED WITH SBA IN WASHINGTON  
AND SBA FINDINGS**

Mr. Thomas S. Kleppe  
Administrator  
Small Business Administration  
1441 L Street, N.W.  
Washington, D.C. 20416

Dear Mr. Kleppe,

I wish to file a complaint against one of your agencies, the Small Business Administration. I was discriminated against, and denied an Economic Opportunity Loan, which I thoroughly qualified for.

The S.B.A. conspired to put me out of business and keep me out of business because: 1—I am black, 2—I am a female, 3—The type of business.

I originally applied for this loan in June, 1965. At that time I had a going business and was employing 17 persons, and had a job for myself.

I had been granted a token loan for \$6,000.00 in November, 1964, and my payments were kept up to date. Mr. Gordon, an S.B.A. officer, was assigned to visit my shop, and aid me with problems. When I applied for the loan, he requested that I have my jobber write a letter to assure the S.B.A. I would have sufficient income to repay the loan. That letter is attached for your viewing.

I enquired about the loan after waiting so long. My application was just lying there. I was then told to get another contract. I secured a contract from Anne Fogarty, 550 Seventh Avenue. When they were read to send the work into my shop, the S.B.A. wouldn't let me take the work.

I was behind in my rent at that point. The S.B.A. said, we can't let you take the work, because the landlord will lock you out, and the Company wouldn't be able to get the work to fill their orders. Then I had my landlord write to the S.B.A., granting me time before they take any action, but they still did not let the work come into the shop. The Internal Revenue called and told me they were coming to put a seal on the door that same day, which they did. Attached is a letter from the landlord, and the contract from Anne Fogarty.

Many efforts have been made in-between 1965 and 1975, to obtain a loan to reopen my business. I have tried to get a loan, or (that loan) as recent as April 8th, 1975, but with no success. They returned my application and supporting documents. I am enclosing my letter dated April 8th, 1975, which accompanied my application to them, also their letter of denial dated 6/2/75.

I have never tried to forfeit my loan obligations. It has always been acknowledged by me first. I am enclosing a copy of a letter I mailed to five Government heads, including the President, (Johnson at that time), and Folley of S.B.A., in Washington, D.C.

In that letter of December 1, 1965, I was reaching out for help. I didn't feel that it was necessary to cry out discrimination, or that I was being denied the opportunity to earn a living, after that law went into effect to help minorities in business in 1964. I felt sure that out of the five letters I mailed, at least one of them would have interceded, and had the seal removed from the door, and look into my problem. Instead, nothing was done to help.

I hope I have given enough facts, and outlined what happened properly, so as to give a clear picture of the total complaint.

Very truly yours,

Venola Walton

Miss Venola Walton  
539 West 148th Street, Apt. 6  
New York, New York 10031

Dear Miss Walton:

This is in reply to your letter of August 11, 1975, alleging sexual and racial discrimination against you by the Small Business Administration (SBA).

We have reviewed the loan files from our New York District Office regarding Emy Grant Fashions, 479 West 150th Street, New York, New York. The following facts were found:

A direct loan in the amount of \$6,000 was authorized on October 30, 1964, by SBA to Emy Grant Fashions per your application dated September 11, 1964. (RSL-134,860-NY(P)). On March 1, 1965, the New York District Office requested by letter that you provide them with an annual periodic financial statement, in accordance with the provisions of the loan agreement. Mr. Melvin Walker, at that time, the Acting Supervisory Loan Specialist, notified you on May 13, 1965, that you were in violation of your loan agreement because you had not sent his office the requested annual financial statements. On May 24, 1965, you responded by sending the financial statement for Emy Grant Fashions for the 6 months ended December 31, 1964. This financial statement showed a loss for that 6 month period totaling \$1,489.07. Your letter dated May 24, 1965, which accompanied

your annual financial statement revealed to SBA for the first time that you had changed the name of your company to Emily Grant Fashions, Inc., Manufacturers of Dresses. Also, it revealed that you had without prior notice to SBA, transferred all of the assets and liabilities of Emy Grant Fashions to Emily Grant Fashions, Inc., the stock of which was issued to you.

The loan files indicate that SBA sent you your first delinquent notice on April 2, 1965. At that time, you were 1 month in arrears. A June 29, 1965, Report on Field Visit Made (Field visit of 6-16-65) written by Loan Specialist, Stephen Gordon, indicates that after an examination of your company's bank books there appeared to be a shortage of funds. At that time, your loan was shown as current. On that same occasion, Mr. Gordon discussed with you the SCORE Program and you signed SBA Form 641, requesting counseling from SCORE. A Volunteer Advisor Program Evaluation Report about Emy Grant Fashions written by SCORE Counselor, Mr. Morris Shenker, indicated that based on his observations of your business you were in difficulty and that union manufacturers had cancelled contracts with you because your shop was nonunion.

A copy of your December 1, 1965, letter to Mr. Eugene P. Foley, then the Administrator of the Small Business Administration, is included as part of the loan file. You stated in paragraph four of that letter, and I quote "I succeeded in getting a jobber who was able to supply me with a steady flow of work. I worked for them a few months successfully. Then the union started harassing the shop. It was a constant thing, exerting more pressure from time to time, until the work was stopped completely. I called on various government departments and organizations for help,

but they were unable to do anything to help my situation. Consequently, I became delinquent in my taxes."

Miss Walton, your own words written to SBA seem to refute your allegation that SBA conspired to put you out of business.

A memorandum reporting delinquent loans, dated February 21, 1966, (for the monthly period ended February 25, 1966) to Acting Regional Director, Mr. Andrew J. Semon from Mr. Stephen Gordon, Loan Specialist showed your loan to be delinquent by \$198.00 (two installments). In the comments section of this report Mr. Gordon stated that your business had been seized by the Internal Revenue Service on December 14, 1965, for nonpayment of taxes. He informed Mr. Semon that your loan would be transferred to liquidation.

On March 17, 1966, a second memorandum reporting delinquent loans (for the monthly period ending 2-25-66) to the Acting Regional Director showed your loan to be further delinquent five installments, in the amount of \$495.00.

A May 12, 1966, report to the Regional Director for Mr. Stephen Gordon, Loan Specialist shows your business was inactive and your loan delinquent 6 monthly installments in the amount of \$99.00 each, for a total of \$594.00 as of April 13, 1966. The report indicates that several attempts were made to contact you by phone in efforts to effect collection. Mr. Gordon states that because of additional duties he was unable to make personal visits to effect collection. In view of the foregoing, Mr. Gordon recommended the following:

1. That the Regional Director authorize acceleration of maturity of your note.
2. That the Regional Director make written de-

mand upon you for payment of your loan. In the event that you did not comply with the demand for payment, the Regional Counsel was to refer your loan to the United States Attorney for a deficiency judgment.

On June 7, 1966, Acting Regional Director, Raymond B. Curran sent to you (by certified mail, return receipt requested) a letter informing you of your default on your loan. He informed you of your failure to pay certain installments of principal and interest when they became due and payable, and of their intent to accelerate the maturity of the note. Finally, Mr. Curran advised you that unless your note was paid including the balance of principal and interest accrued to date of payment, no later than June 13, 1966, SBA would "proceed to take such action as is available to us for the purpose of enforcing payment of this loan without further notice to you."

Miss Walton, your loan was charged off, subject to semi-annual review on July 27, 1966. The principal balance was \$5,210.42. The accrued interest was \$34.23, a total of 5,244.65.

On November 5, 1968, Mr. Irving Warnasch, Program Coordinator Liquidation and Disposal, sent a letter to you (certified mail return receipt requested) demanding payment of the balance due on your loan by November 20, 1968, unless SBA proceed against you. No response to this letter by you is included in the loan files.

A final memo to the files dated October 15, 1969, states that you visited the New York District Office and were interviewed by the Liquidation and Disposal Officer, Mr. Edward J. Ryan.

At your insistence (the report states) you were given a written statement signed by Mr. Ryan to the effect that your loan had been Charged-off, Closed, on November 6, 1968, with an outstanding balance of \$5,244.65.

The law requires reasonable assurance that an SBA loan can be repayed out of the proceeds of the business. The history of your former dealings with SBA do not appear to support such repayment ability.

Based on the above facts, and after reviewing the circumstances involved with your loan, we find no evidence of discriminatory treatment. It appears that the New York District Office personnel made every effort to be of assistance to you.

Sincerely,

s/Robert L. Maxwell  
Robert L. Maxwell  
Assistance to the Chief  
Compliance Division  
Office of Equal Employment  
Opportunity and Compliance



Ms. Venola Walton  
539 West 148th Street  
Apartment 6  
New York, N.Y. 10031

Dear Ms. Walton:

This is in reply to your letter dated October 15, 1975, to former Administrator Thomas S. Kleppe reiterating that you were discriminated against by the New York District Office of the Small Business Administration.

Mr. Robert Maxwell sent you a letter on October 10, 1975, which contained his preliminary findings. You allege that he omitted many important facts. We reiterate what he asked you for before, to provide us with any specific facts regarding the alleged acts of discrimination by SBA or SBA employees including who, where, when, how, why and what specific acts you feel are important which constitute discrimination. SBA has no authority over other government agencies or non-public organizations or individuals. You also indicate in your most recent letter that many of Mr. Maxwell's preliminary findings are not true. Please indicate which statements you believe not to be true and what facts you have which would tend to refute them.

You can be assured that if you provide us with additional specifics, we will conduct an in-depth investigation of your complaint. We appreciate your bringing these allegations to our attention. We would deeply appreciate your cooperation in finding out what the facts actually are

and providing us with specific information previously requested and which we are again requesting from you.

Thank you for your attention.

Sincerely yours,

s/J. Arnold Feldman  
J. Arnold Feldman  
Chief, Compliance Division  
Office of Equal Employment  
Opportunity and Compliance

539 West 148th Street, Apt. 6  
New York, N.Y. 10031

November 11th, 1975

Mr. J. Arnold Feldman  
Small Business Administration  
Chief, Compliance Division  
Office of Equal Employment,  
Opportunity and Compliance  
1441 L. Street, N.W.  
Washington, D.C. 20416

Dear Mr. Feldman,

This is in reply to your letter dated October 30, 1975, of which was a reply to a letter I wrote to Mr. Kleppe regarding a complaint I filed against the Small Business Administration the findings thereof.

It is true that Mr. Maxwell omitted many important facts, and made many false statements in his report. I had no correspondence with Mr. Maxwell until I received his report dated October 7th, 1975. I did receive a telephone call on September 30th, 1975. In my letter to Mr. Kleppe, dated October 15th, 1975, I requested a hearing that all the facts may be presented. Mr. Maxwell stated in his report that he had received my files from the New York Office, and these things were found in my file.

In my complaint I attached certain documents, and the dates thereon will verify my complaint against the S.B.A. I was already in business and employing 17 persons, and had a job for myself at the time I applied for the loan.

I would appreciate a hearing on this matter, or an appointment to present proof to you, or to the person in charge of Mr. Kleppe's office.

Thanking you for your immediate attention to this matter.

Very truly yours,

Venola Walton

Ms. Venola Walton  
539 West 148th Street  
Apartment 6  
New York, New York 10031

Dear Ms. Walton:

This is in reply to your letter dated November 11, 1975, to Mr. J. Arnold Feldman, Chief, Compliance Division, Office of Equal Employment Opportunity and Compliance, reiterating that our investigation of your complaint contained many false statements and omitted many important facts.

You have again failed to supply us with any additional information which would be more illuminating. We reiterate what we asked you for before, to provide us with any specific facts regarding the alleged acts of discrimination by the Small Business Administration or its employees including who, where, when, how, why and what specific acts you feel are important which constitute discrimination.

Again, we ask you to please indicate which statements, in the investigation report you believe not to be true and what facts you have which would tend to refute them.

In regards to your statement concerning the documents you mailed to us, attached to your letter of complaint as verification of your being discriminated against by SBA, none of them serve to substantiate your allegations.

You can be assured that if you provide us with additional specifics, we will conduct an in-depth investigation

of your complaint. We appreciate your bringing these allegations to our attention. We would deeply appreciate your cooperation in finding out what the facts actually are and providing us with specific information previously requested and which we are again requesting from you.

Thank you for your attention.

Sincerely,

s/Robert L. Maxwell  
Robert L. Maxwell  
Assistant to the Chief  
Compliance Division  
Office of Equal Employment  
Opportunity and Compliance



539 W. 148th St.  
Apt. 6

New York, N.Y. 10031

Dec. 5, 1975

Mr. Robert L. Maxwell  
Assistant to the Chief  
Compliance Division  
Office of Equal Employment  
Opportunity & Compliance  
1441 L. St., N.W.  
Washington, D.C. 20416

Dear Mr. Maxwell:

I am writing in reference to your letter dated November 19, 1975. You mailed me a report of your findings on October 7, 1975. I am sure your report was based on my complaint, attached documents and my files from your New York office. With that being true, and if the information in my files was correct, those statements could not or would not have been made. I have in my last two letters to your office requested a hearing so that the facts could be presented. My requests have been ignored. Therefore, I have been advised to seek legal counsel who will present the facts at the proper time.

I had hoped your office would have been more helpful in this matter.

Very truly yours,

s/Venola Walton  
Venola Walton

Ms. Venola Walton  
539 West 148th Street, Apt. No. 6  
New York, New York 10031

Dear Ms. Walton:

This is in reply to your letter dated December 5, 1975, regarding the preliminary findings of no discrimination in your complaint against the New York District Office of the Small Business Administration.

In letters dated October 30, 1975, and November 19, 1975, we asked you to provide us with specific information which might give us reason to conduct an in-depth investigation into the circumstances of your complaint. As of this date you have not come forth with such information; therefore, we have no alternative but to consider this case closed.

We regret that we have not been able to be of more assistance to you in this matter.

Sincerely yours,

s/Robert L. Maxwell  
Assistant to the Chief,  
Compliance Division  
Office of Equal Employment  
Opportunity and Compliance

Ms. Venola Walton  
539 West 148th St., No. 6  
New York, New York 10031

Dear Ms. Walton:

Thank you for your letter of January 20, 1976, which included previously requested documents.

We will review each of the documents to see if any or all of them further substantiate your allegations that SBA discriminated against you.

At the conclusion of the review of these documents you will be notified as to whether or not your case will be reopened and an investigation will be launched.

Thank you for providing us the opportunity to assist you.

Sincerely,

s/Robert L. Maxwell  
Robert L. Maxwell  
Assistant to the Chief,  
Compliance Division  
Office of Equal Employment  
Opportunity and Compliance

539 West 148th Street Apt. No. 6  
New York, New York 10031

February 24, 1976

Mr. Robert L. Maxwell  
Assistant to the Chief Compliance Division  
Office of Equal Employment  
Opportunity and Compliance  
1441 L. Street N.W.  
Washington, D.C. 20416

Dear Mr. Maxwell:

I am writing in reply to your letter dated February 19, 1976. Thanks for acknowledging my letter and documents of January 20, 1976. However, I was disappointed; at this late date, you had not reviewed the documents so as to know whether they warrant reopening my case.

I hope you will review the documents and make your decision soon. I had hoped that you had already begun investigation.

Please let me hear from you soon regarding this matter. Thanking you in advance.

Very truly yours,

Venola Walton

Mr. Robert L. Maxwell  
 Assistant to Chief Compliance Division  
 Office of Equal Employment Opportunity  
 and Compliance  
 1441 L. Street, N.W.  
 Washington, D.C. 20416

Dear Mr. Maxwell:

I am writing in reference to your letter dated the 16th day of December, 1975, wherein you stated that you had closed my case because I did not provide you with specific information which might give you reason to conduct an in-depth investigation into the circumstances of my complaint.

I would like to call your attention to my letters to your office dated the 15th day of October, 1975 and the 11th day of November, 1975, in which I requested an appointment, to present my proof to you in person. I also informed you that your report contained many false statements which you said were based on information from my file. I felt that I should have seen that information before presenting proof of the same.

Through the aid of the New York Civil Liberties Union, who contacted your office, it was made possible for me to obtain an appointment for January 6, 1976, with Mr. Mauch, who gave me copies of certain letters and papers that I requested from my file.

Referring to Mr. Melvin Walker's letter, in which he stated that I was in violation of my loan agreement because I had not sent the requested financial statement. I

am enclosing a copy of a letter, No. RSL-134,680-NY-P, from your district office, dated the 29th day of December, 1964, in which information was given regarding the payment of my loan.

The letter Mr. Gordon requested from my jobber, of which a copy was attached to my complaint and mailed to your office on August 11, 1975. This letter stated very clearly that I was in need of finances to improve my present operation, to be able to do more and better business. I realized the need to improve my business and certainly, if my business had been financially sound, I would have had no need for a loan.

I filed for a certificate of incorporation and received the incorporation kit but did not receive the approved certificate. Attached herein is a copy of a letter which I mailed to the Secretary of State, Mr. John P. Lomenzo, inquiring into same. I am also attaching a copy of his reply. The corporation was never formed. All of my business transactions were done under the name of Emy Grant Fashions. I have in my possession the incorporation kit, which may be examined at any time you desire.

The attached cancelled checks and letters serve as proof that I had not transferred any assets or liabilities, nor did I do business under that name.

I was not delinquent in my payments to the Small Business Administration, for one month, when a notice supposedly was sent to me on April 2, 1965. Attached hereto are cancelled checks reflecting payment for February, March, April and May.

At the time I was given the information from my files on January 6, 1976. I requested a copy of the Small Business Administration form No. 641, which I supposedly had signed, requesting counseling from Score. I was told by Mr. Mauch, that said form was not in my file. Mr. Shenker from Score reported on my business that I was in difficulty and that Union Manufacturers had cancelled

contracts with me because my shop was non-union. I am enclosing copies of my report to the Health, Welfare and Severance Fund, Joint Board, Dress and Waistmakers Union as proof of being Unionized.

I have furnished you with the necessary information which will enable you to re-open my case and proceed with the investigation of my complaint; and will allow you to make a just judgment.

It is my sincere hope that you will realize the wrong that has been done to me and will endeavor to rectify same.

Thanking you in advance for your anticipated cooperation and prompt attention in this matter, I remain,

Very truly yours,

Venola Walton (Ms.)

Ms. Venola Walton  
539 West 148th Street Apt. No. 6  
New York, New York 10031

Dear Ms. Walton:

We have reviewed the documents that you sent to us in your letter of January 20, 1976. Unfortunately, we fail to see how any of them lend further substantiation to your allegations of discrimination against you by the New York District Office of the Small Business Administration.

We ask that you please inform us as to how each of the documents specifically justify our launching an investigation of the New York Office on the grounds of discrimination.

We await your earnest reply.

Sincerely yours,

s/Robert L. Maxwell  
Robert L. Maxwell  
Assistant to the Chief,  
Compliance Division  
Office of Equal Employment  
Opportunity and Compliance



## APPENDIX 2

## MEMORANDUM DECISION OF DISTRICT COURT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

U.S. Civ. 3208 (JMC)

VENOLA WALTON,

Plaintiff,

-against-

THE SMALL BUSINESS ADMINISTRATION,

Defendant.

CANNELLA, D.J.:

Motion for summary judgment, Fed. R. Civ. P. 56(b), is granted as to the first claim in the complaint. Motion to dismiss for lack of subject matter jurisdiction, Fed. R. Civ. P. 12(b)(1), is granted as to the second claim. The complaint is dismissed.

Plaintiff Venola Walton, a black woman, brought this suit against the Small Business Administration ["SBA"] claiming that the agency's wrongful refusal to loan her money in 1965 and 1975 caused the failure of her dressmaking business.<sup>1</sup> Specifically, the complaint alleges

1. In November 1964 plaintiff was granted an SBA loan in the amount of \$6,000. In November 1965 plaintiff defaulted in her loan payments, and the Internal Revenue Service closed plaintiff's business for non-payment of federal taxes. Plaintiff contests the adequacy of the \$6,000 SBA loan and the agency's failure to lend her additional monies when she applied for them.

that such loans were denied plaintiff on the basis of her sex and race and that the defendant placed false documents in her SBA file. Defendant moves to dismiss the complaint for lack of subject matter jurisdiction and, alternatively, for summary judgment. As to the first claim, the Court finds, on the basis of the affidavits and supporting papers, that there are no material facts in issue and that defendant is entitled to judgment as a matter of law. As to the second allegation, the Court finds it is jurisdictionally defective because plaintiff failed to file an administrative claim. 28 U.S.C. §2675(a). The Court further finds that all claims arising from plaintiff's 1965 loan application are time-barred. 28 U.S.C. §2401(b).

Plaintiff's discrimination claim consists merely of the fact that she is a black woman and that, on two occasions, the SBA denied her a loan. Defendant's moving papers set out the circumstances under which these loan applications were denied, and it appears to the Court that the agency's decisions were substantially supported. See 5 U.S.C. §706. In response to the Government's papers, plaintiff has not advanced even one fact suggestive of discrimination. In such a case, the awarding of summary judgment is appropriate. *E.g.*, *Donnelly v. Guion*, 467 F.2d 290, 293 (2d Cir. 1972); *Appelgate v. Top Assocs., Inc.*, 425 F. 2d 92, 96 (2d Cir. 1970); see Fed. R. Civ. P. 56(e).

Plaintiff's second claim, that the SBA placed false and damaging documents in her file, must be dismissed for lack of subject matter jurisdiction due to plaintiff's failure to file an administrative claim. Fed. R. Civ. P. 12(b)(1); 28 U.S.C. §2675(a). Additionally, insofar as the claim is one for defamation, the doctrine of sovereign immunity would act as a bar to suit, 28 U.S.C. §2680 (h), and the Court finds the claim to be plainly frivolous.

Plaintiff, like so many other persons, tried to make a go of her own business, and failed. For a variety of

reasons, none of which involved plaintiff's race or sex, the SBA decided in its discretion that its funds should not be used to help fund her enterprise. In the absence of a showing that the SBA's decision rested on improper criteria, its decision cannot be disturbed.

For the above reasons, defendant's motions are granted and the complaint is dismissed.

The foregoing constitute the findings of fact and conclusions of law of the Court pursuant to Fed. R. Civ. P. 52(a).

SO ORDERED.

s/John M. Cannella  
JOHN M. CANNELLA  
U.S.D.J.

Dated: New York, New York  
January 17, 1978

### APPENDIX 3

#### UNITED STATES DISTRICT COURT JUDGMENT DATED JANUARY 23, 1978

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

78 Civil 3208 (JMC)

VENOLA WALTON,

Plaintiff,

-against-

THE SMALL BUSINESS ADMINISTRATION,  
Defendant.

Defendant having moved the Court for summary judgment, pursuant to Rule 56, and pursuant to Rule 12(b)(1), of the Federal Rules of Civil Procedure, and the said motions having come on to be heard before the Honorable John M. Cannella, United States District Judge, and the Court thereafter on January 17, 1978, having handed down its memorandum decision, constituting its findings of fact and conclusions of law, and the Court having granted defendant's motions, it is,

ORDERED, ADJUDGED and DECREED: that Defendant THE SMALL BUSINESS ADMINISTRATION have judgment against plaintiff VENOLA WALTON dismissing the complaint.

Dated: New York, N.Y.  
January 23, 1978

s/Raymond F. Burghardt  
Clerk

## APPENDIX 4

ORDER OF UNITED STATES COURT OF APPEALS  
SECOND CIRCUIT, DATED JUNE 19, 1978

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 19th day of June, one thousand nine hundred and seventy-eight.

Present:

HON. WILLIAM H. MULLIGAN  
HON. JAMES L. OAKES,  
HON. MURRAY I. GURFEIN,  
Circuit Judges.

(SAME TITLE) 78-6017

Appeal from the United States District Court for the Southern District of New York.

This cause came on to be heard on the transcript of record from the United States District Court for the Southern District of New York, and was argued by counsel.

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged, and decreed that the judgment of said District Court be and it hereby is affirmed on the opinion of Hon. John M. Cannella, District Judge, in 76 Civ. 3208 (Jan. 17, 1978).

s/William H. Mulligan  
WILLIAM H. MULLIGAN

s/James L. Oakes  
JAMES L. OAKES

s/Murray I. Gurfein  
MURRAY I. GURFEIN

## APPENDIX 5

ORDER DATED AUGUST 9, 1978 DENYING PETITION  
FOR REHEARING

At a stated term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the twenty-ninth day of August, one thousand nine hundred and seventy-eight.

(SAME TITLE) 78-6017

A petition for rehearing containing a suggestion that the action be reheard in banc having been filed herein by counsel for the appellant, Venola Walton, and no active judge or judge who was a member of the panel having requested that a vote be taken on said suggestion,

Upon consideration thereof, it is

Ordered that said petition be and it hereby is DENIED.

s/Irving R. Kaufman  
Chief Judge  
IRVING R. KAUFMAN





30a

REMITTANCE STATEMENT			
<p>Amco Toggery Inc., 550 Seventh Avenue, New York, N.Y. 10018            Telephone 4-0118</p> <p>10/7/65</p> <p>10/22/65</p> <p>to Emory Grant Fenton</p>			
RECEIVED FROM	STYLE NO.	QUANTITY	LOAN NO.
Amco Toggery Inc.	451	160 15-44	2444
550 Seventh Avenue		160 11-44	
New York, New York 10018			
DRESSES			
<p>Subject To Documentation</p> <p>P.T.</p> <p>CHARGE NO. D 3458</p>			

# APPENDIX 7-A LETTER FROM M.J. FENTON (LANDLORD) DATED OCTOBER 20, 1965 TO SBA (NYC) EXTENDING TIME TO PROCESS LOAN

Small Business Development & Opportunities Corp.  
361 West 125th Street  
New York, N.Y. 10027

Attention: Mr. Charles H. Hanley

Re: 12th Floor Front West  
347-53 West 39th Street  
New York, N.Y.

Dear Mr. Hanley:

This is to advise you concerning our pending Summary Proceedings against Miss Venola Walton, tenant of the captioned premises, for non-payment of September and October 1965 rent and other incidental charges aggregating \$454.00, that we will withhold any further action with respect to same until December 15, 1965.

Yours very truly,

ADAMS & CO. REAL ESTATE, INC.  
M.J. Fenton  
Vice President

MJF:es

## APPENDIX 8

FALSE STATEMENTS PLACED IN PLAINTIFF'S  
SBA'S FILES

In reply refer to: LAS:LG

Venola Walton d/b/a  
 Emy-Grant Fashions  
 347 West 39th Street  
 New York, New York

Re: RSL-134, 680-NY(P)

Dear Madam:

You are hereby notified that the delinquent monthly installment of \$99.00, due March 12 1965, must be paid immediately and all future installments must be forwarded to reach this office on or before the due date.

Very truly yours,

Charles H. Kriger  
 Regional Director  
 By s/J.R. Glassford  
 J. R. Glassford, Chief  
 Loan Administration Section  
 Financial Assistance Division

AHS:bk

VOLUNTEER ADVISOR PROGRAM EVALUATION REPORT NO. 3	
Instructions: (To be completed by Leader/Counselor and the MA Chief to record evaluation of case accomplishments 90 days after initial trip to place of business.)	
COUNSELOR (S) Morris Shenker	REGION New York
BUSINESS COUNSELED	
COMPANY EMY GRANT FASHIONS	
INDIVIDUAL (S) Venola Walton	
ADDRESS 347 West 39th Street, New York, New York	
<p>I visited subject at her factory and discovered that she was in difficulties with the manufacturers having withdrawn their contracts to her on account of the union. Therefore, my conclusion was that she really needs to straighten herself out with the union and the manufacturers.</p> <p>Since I am unable to give her any further assistance I suggest that we close this file.</p>	
LEADER/COUNSELOR NAME Morris Shenker	DATE October 28, 1965
VOLUNTEER ADVISOR AUDIT REPORT (To be completed by the MA Chief to record his evaluation of accomplishments at the conclusion of case.)	
<p>We concur.</p> <p>Please close case.</p>	
MA CHIEF James N. Casey, Gen. Bus. & Ind. Spec. (SCORE)	DATE October 29, 1965

## APPENDIX 9

**CHECKS REFLECTING PAYMENT TO SBA ON LOAN  
NOTE FROM DEC. 7, 1964 THROUGH SEPT., 1965**

[illegible][illegible][illegible][illegible]

FIG. 12. The cover of my  
Faintly Recalled Book or Book  
of General Legation  
for credit to the  
TREASURY OF THE UNITED STATES

DEC 10 04 2008

Pay to the order of:  
Federal Reserve Bank of St. Louis  
of General Depository  
for credit to the  
TREASURER OF THE UNITED STATES

Serial 84-1234567890123456  
REG. NO. 1234

362 1-120

F.R.B. NEW YORK

JAN 14 08 09303

1-120

6 6 6

MADE IN THE U.S.A.

362

Pay to the order of any  
Federal Reserve Bank or Branch  
of Central Depository  
for credit to the  
TREASURER OF THE UNITED STATES

Small Business Administration  
U. S. DEPARTMENT OF COMMERCE  
WASHINGTON, D. C. 20540

SECRET 6991

МАП 15 65 77777









### HEALTH, WELFARE and SEVERANCE FUND

Joint Board Dress & Waistmakers' Union, ILGWU AFL-CIO  
Contractor's Payroll Report for the Month of March 1965

various material 1/8  
American Falls  
Aug 1st by the front  
New York N.Y.

- 1 Social Security Number must be reported for all workers
- 2 Cross out names of workers who have left your employ
- 3 List all new workers and SS numbers in proper craft group
- 4 REPORT WEEKLY HOURS IN SHADDED COLUMNS

[illegible]

DATE		ACCOUNT		AMOUNT		BALANCE	
1	1960	1960	1960	1960	1960	1960	1960
2	1960	1960	1960	1960	1960	1960	1960
3	1960	1960	1960	1960	1960	1960	1960
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43	1960	1960	1960	1960	1960	1960	1960
44	1960	1960	1960	1960	1960	1960	1960
45	1960	1960	1960	1960	1960	1960	1960
46	1960	1960	1960	1960	1960	1960	1960
47	1960	1960	1960	1960	1960	1960	1960
48	1960	1960	1960	1960	1960	1960	1960

\_\_\_\_\_

**Amount of Cash or Cash Equivalent**

Has and Has Not by the US of the following report:

**Amount of Cash or Cash Equivalent**

The above is a complete and correct copy of money paid to another  
in my custody during month covered by this report.

### HEALTH, WELFARE and SEVERANCE FUND

Joint Board Dress & Waistmakers' Union, ILGWU AFL-CIO  
Contractor's Payroll Report for the Month of April 1965

VENOLA WALTON T/A  
EMERSON FALLON  
307 W. 29th STREET  
NEW YORK 19, N.Y.

1. Social Security Number must be reported for all workers.
2. Cross out names of workers who have left your employ.
3. List all new workers and SS numbers in proper craft group.
4. **REPORT WEEKLY HOURS IN SNAZED COLUMNS:**

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000	1001	1002	1003	1004	1005	1006	1007	1008	1009	1010	1011	1012	1013	1014	1015	1016	1017	1018	1019	1020	1021	1022	1023	1024	1025	1026	1027	1028	1029	1030	1031	1032	1033	1034	1035	1036	1037	1038	1039	1040	1041	1042	1043	1044	1045	1046	1047	1048	1049	1050	1051	1052	1053	1054	1055	1056	1057	1058	1059	1060	1061	1062	1063	1064	1065	1066	1067	1068	1069	1070	1071	1072	1073	1074	1075	1076	1077	1078	1079	1080	1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091	1092	1093	1094	1095	1096	1097	1098	1099	1100	1101	1102	1103	1104	1105	1106	1107	1108	1109	1110	1111	1112	1113	1114	1115	1116	1117	1118	1119	1120	1121	1122	1123	1124	1125	1126	1127	1128	1129	1130	1131	1132	1133	1134	1135	1136	1137	1138	1139	1140	1141	1142	1143	1144	1145	1146	1147	1148	1149	1150	1151	1152	1153	1154	1155	1156	1157	1158	1159	1160	1161	1162	1163	1164	1165	1166	1167	1168	1169	1170	1171	1172	1173	1174	1175	1176	1177	1178	1179	1180	1181	1182	1183	1184	1185	1186	1187	1188	1189	1190	1191	1192	1193	1194	1195	1196	1197	1198	1199	1200	1201	1202	1203	1204	1205	1206	1207	1208	1209	1210	1211	1212	1213	1214	1215	1216	1217	1218	1219	1220	1221	12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RECENTLY RECORDED RECORDS DURING THIS MONTH						
	JOBBER'S NAME	ADDRESS	DATE OF RECORDING	PRICE PAID	CHIEF CARRIER'S NAME	CHIEF CARRIER'S ADDRESS
1	Belle Marie Jones Geo	101 1/2 Ave N	1/10/15			
2						
3						
4						
5						

**IMPORTANT:** Contractors working for Non-Union Firms or Firms having Union Agreements without Health and Welfare provisions are fully responsible for the payment of 5% of their payroll for such work or the equivalent rate or amounts from add-ons to the Health and Welfare Fund. Please use the space below to compute amount due for each week and attach check with the remittance.

Mail out later than by the 15th of the following month to HEALTH, WEAPONS and SPYRACEL FUND  
JOINT BOARD DUES and WASHINGTON GREEN  
200 West 20th Street, New York, N. Y.



## APPENDIX 10

### REFERENCE LETTERS ESTABLISHING PLAINTIFF'S QUALIFICATIONS, AND BUSINESS REFERENCES

**LETTER FROM COLUMBIA DANCE FROCKS**  
**1386 BROADWAY, NEW YORK, N.Y.**

**To Whom It May Concern:**

This letter will verify that Venola Walton, 413 W. 148th St., N.Y.C., was associated with this firm in the production of evening gowns for a period in the past. As a contractor, her work was satisfactory and our business relationship was excellent.

Were she to engage in such enterprise again, we would consider her as a possible contractor for our gowns.

## Marcus Fina

**LETTER FROM JOY TIME**  
**1385 BROADWAY, NEW YORK, N.Y.**  
**DATED JULY 29, 1970**

Re: Miss Venola Walton

To whom it may concern:

We have used the design and production services of Miss Venola Walton on numerous past occasions and have always found them to be of a very high quality.

We would look with favour to the future use of these same services if they become available to us and are of the same high quality as in the past.

**JOY TIME INC.**  
s/Bernard L. Shapiro  
Bernard L. Shapiro  
pres.

Vanessa Williams 7/18  
Boy Scout Fairchild  
Boy w. 2nd Street  
New York N.Y.

1. Social Security Number must be reported for all workers.
2. Cross out names of workers who have left your employ.
3. List all new workers and S.S. numbers in proper trade group.
4. REPORT WEEKLY HOURS IN SHADED COLUMNS.

MONTHLY RECEIPT									
1	2	3	4	5	6	7	8	9	10
1	WORKER'S NAME	SOCIAL SECURITY NUMBER	DATE	TIME	DATE	TIME	DATE	TIME	AMOUNT
1	PALIN, BEAR	07/21/54	12:00	12:00	07/21/54	12:00	12:00	07/21/54	12:00
2	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
3	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
4	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
5	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
6	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
7	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
8	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
9	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
10	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
11	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
12	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
13	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
14	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
15	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
16	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
17	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
18	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
19	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
20	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
21	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
22	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
23	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
24	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
25	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
26	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
27	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
28	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
29	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
30	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
31	RAY, JAMES	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00
32	RAY, CAROL	08/24/54	12:00	12:00	08/24/54	12:00	12:00	08/24/54	12:00

RECEIPTS FROM JOBBERS DURING THIS MONTH						TOTAL
	JOBBER'S NAME	ADDRESS	DATE WHEN RECEIVED	AMOUNT	CHECK JOBBER'S STATUS	REMARKS
1	Miller, Walter Bruce, Esq.	501 7th Ave. N.Y.	1/25/78			
2						
3						
4						
5						

**IMPORTANT:** Contractors working for Non-Union Shops or those having Union Agreements without Health and Welfare provisions are fully responsible for the payment of 9% of their payroll for such work or the equivalent rate as available from employers in the Health and Welfare Fund. Please use the above label to complete amount due for such work and submit along with the invoice.

ALL THE TIME PAID BY THE EMPLOYER UNDER THE FOLLOWING HEADS: HEALTH, WELFARE AND SEVERANCE FUND;  
SICK LEAVE FUND; AND UNEMPLOYMENT INSURANCE FUND.

The above is a complete and correct copy of original and is correct  
is our master copy. Thank you for the interest.

**LETTER FROM BELLE MADE DRESS CORP.  
501 SEVENTH AVENUE, NEW YORK, N.Y.  
DATED AUGUST 8, 1970**

To Whom It May Concern:

This will verify that Venola Walton worked for us as a Contractor. She is highly qualified in all areas of production. The quality of work was excellent.

If her services would become available again and were of the same high quality, we would consider her as a possible contractor for our work in the event we needed additional production.

Very truly yours,  
NORMAN S. LERNER  
s/Norman S Lerner  
V.P.

**APPENDIX 11**

**SUIT FILED BY PLAINTIFF ON JULY 20, 1976  
IN UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

(SAME TITLE)

1. I am filing in this Court because I am suing a Federal Agency, and this is a Federal Court.

2. I wish to sue the Small Business Administration, 26 Federal Plaza, New York, 10007.

3. My name is Venola Walton, 539 West 148th Street, apt. 6, New York, N.Y., 10031.

4. I am charging the Small Business Administration with:

1. Discrimination; Denying me an Economic Opportunity Loan.

In June, 1964, I opened a dress factory under the name of Emygrant Fashions at 347 West 39th Street, New York City. I employed 17 persons and had a job for myself. In November, 1964, I was granted a \$6,000.00 loan from the Small Business Administration. Mr. Gordon, an S.B.A. Officer was assigned to visit my shop and aid me with problems. In June, 1965, I applied for an Economic Opportunity Loan. Mr. Gordon requested that I have my jobber write the Small Business Administration a letter to assure them that I would have sufficient income to repay the loan. I am enclosing a copy of that letter. I had complied with all of their requests, and met all requirements for the loan. My application was left lying there.

When I called about the application, I was told I had to get another contract. I secured another contract from Anne Fogarty, 550-7th Avenue, New York City, in October, 1965. When they were ready to send the work into my shop, the Small Business Administration would not let

me take the work. They said, the landlord will lock you out, and the Company would not be able to get the work to fill their orders. Then the Small Business Administration requested that I get a letter from my landlord, granting me time in order to take the work in, and for them to process my application. I am enclosing the contract from Anne Fogarty, and the letter from my landlord. I was then locked out by the Internal Revenue.

Much has transpired between 1975 in my effort to secure a loan. I am enclosing a letter dated April 8th, 1975 which accompanied my last application to the Small Business Administration. Also enclosed is their letter of denial, dated June 2nd, 1975.

2. I further charge the Small Business Administration with placing false information in my files, and for giving out false information which would discredit me.

On August 11th, 1975, I filed a complaint with Mr. Thomas S. Kleppe, Administrator, Small Business Administration, 1441 L Street, N.W., Washington, D.C., 20416. On October 10th, 1975, I received a report on their findings from Mr. Robert L. Maxwell. I informed them that their report contained many false statements, and requested a hearing so that all the facts could be presented. My request was ignored. It was made possible for me to go into the S.B.A. office and review certain documents from my file. The information Mr. Maxwell said he had based his findings on, was found in my file, at the S.B.A. office in New York City. I was given copies of that information. I mailed Mr. Maxwell documents of my proof that the information he had used in his findings was false. My case was closed, and they would not reopen it.

I am enclosing a copy of his findings, a copy of the documents from my file, copies of documents of my proof that false information was in my files.

5. I am asking the Court to order the Small Business

Administration to pay me \$500,000.00 for each year I have been:

1. Denied the opportunity to earn a living
2. Denied the opportunity to participate in our economic struggle, by making jobs for others
3. Denied the opportunity to participate in our free enterprise system
4. To pay for the obstruction of my livelihood.

s/Venolā Walton

Filed July 20, 1976



## APPENDIX 12

## PLAINTIFF'S ONE YEAR PROJECTION OF INCOME AND EXPENSES

My Resume, Reference letters, projections, etc., and the Small Business Administration's personal knowledge of my abilities and business performance that verify and tell of my experience and qualifications. The Defendant, SBA, through the fraudulent acts closed my business and engaged in a conspiracy to keep it closed.

Please take notice of my one year projections of income and expense: 1-2 and 3 (a revised one) and compare with the defendant's reasons for denying my loan application. In my one year projection, I have a Break Down, and I am sure if the defendants had bothered to read the entire projection, seeing an estimated sales for the year of \$315,000.00, it would not have struck him as being outlandish.

I shall go through the figures in projection number 1: I am working with a production figure of 210 dresses per week, priced at \$31.25 per dress.

Estimated Sales for the week	\$6,562.50
Estimated Sales for the Month	26,250.00
Estimated Sales for the year	315,000.00

Note: In order to produce these dresses, we must have material, lining, trimming, notions, so we have the cost of goods sold, \$12.75 per dress, producing 210 dresses per week, 10,060 dresses per year at a total cost of \$128,510.00

Estimated Sales for the year	315,000.00
Minus— Cost of goods sold	128,510.00
Leaves a gross profit of	186,490.00

Still to produce these same dresses we have an operating expense, such as payroll, rent, telephone, electricity, etc.

Approximately	\$127,703.20
Gross Profit	186,490.00
Operating expense	127,703.20
Income	58,786.80
Estimated Income Tax 22%	12,933.10
Leaving an estimated Net Profit of	45,853.70

The defendant must know when you say net profit, that means that all expenses has been paid, including the loan note and interest and owner's salary.

Projection #3, a revised one, at their request. And I have had many such changes to go through in complying with their demands But, even in the \$28,000.00 loan application in which the defendant made reference to the \$656.00 net profit for the year was not enough to pay an S.B.A. loan note and interest, salaries and all expenses had been included in: Gross profits and operating expenses. The \$656.00 was indeed profit.

I suddenly realized that the S.B.A.'s intentions were to force me into poverty, a hopeless state of existence. The harder I tried, the more they oppressed. I had to do something. For the defendants, I could never know enough or qualify enough to obtain a loan from the defendants, the Small Business Administration in their prejudices and race hatred has spoken out loudly, and demonstrated greatly against me.

In the Government's Memorandum of Laws "arguments," the defendant



## APPENDIX 13

## NOTICE OF APPEAL

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

VENOLA WALTON,

*Plaintiff-Appellant,*

-against-

THE SMALL BUSINESS ADMINISTRATION

*Defendant-Appellee.*NOTICE OF APPEAL TO  
THE SUPREME COURT OF THE UNITED STATES  
WASHINGTON, D.C.

Notice is hereby given that Venola Walton, Plaintiff-Appellant, Pro Se, above named, hereby appeals to the Supreme Court of the United States from the order of Hon. Mulligan, Oakes, and Gurfein, (Circuit Judges) Judgment affirmed on the opinion of Hon. John M. Canella, U.S. District Court Judge, in 76 Civ. 3208 (January 17, 1978) on June 19, 1978.

I am also appealing on the original complaint, document, and records filed in the U.S. District Court 76-Civ. 3208 (JMC), appealing from the Memorandum Decision and order of Hon. John M. Canella, ordered, adjudged, and decreed. Judgment dismissing complaint, on January 23, 1978.

Hereto, a petition was filed for re-hearing, suggestion

a re-hearing in banc. Upon consideration thereof, the Hon. Irving R. Kaufman, Chief Judge, Second Circuit, ordered that said Petition be and it hereby is denied, on August 29, 1978.

## STATUTES

Appeal Under Statute 28 U.S.C. §1252

An appeal lies to the Supreme Court from a decision of any Court of the United States, holding an Act of Congress Unconstitutional in a Civil suit to which the United States is a party.

And Supreme Court Practice Third Edition Sec. 2-5

Appeal Jurisdiction over Courts of Appeals where Federal Statute held unconstitutional.

The Federal Civil Rights Acts  
Civil Practice Chapter 7 (42 U.S.C. 1985)

The purpose of the statute was to give a cause of action to individuals deprived of their Federal and Constitutional rights by conspiracies and discriminatory practices.

s/Venola Walton  
Venola Walton, Pro Se  
539 West 148th Stret, Apt. 6  
New York, N.Y. 10031  
Tel. (212) 690-5198

Notice to:

Robert B. Fiske, Jr.  
United States Attorney  
for the Southern District of New York  
Attorney for the Defendant

No. 78-809

Supreme Court, U. S.

FILED

JAN 5 1979

MICHAEL RODAK, JR., CLERK

**In the Supreme Court of the United States**

OCTOBER TERM, 1978

---

VENOLA WALTON, APPELLANT

v.

SMALL BUSINESS ADMINISTRATION

---

*ON APPEAL FROM THE UNITED STATES COURT  
OF APPEALS FOR THE SECOND CIRCUIT*

---

**MOTION TO DISMISS**

---

WADE H. MCCREE, JR.  
*Solicitor General*  
*Department of Justice*  
*Washington, D.C. 20530*

---

**In the Supreme Court of the United States**

**OCTOBER TERM, 1978**

---

**No. 78-809**

**VENOLA WALTON, APPELLANT**

**v.**

**SMALL BUSINESS ADMINISTRATION**

---

***ON APPEAL FROM THE UNITED STATES COURT  
OF APPEALS FOR THE SECOND CIRCUIT***

---

**MOTION TO DISMISS**

---

1. Appellant invokes this Court's jurisdiction under 28 U.S.C. 1252. Section 1252 allows appeal to this Court only when a court of the United States has held an act of Congress unconstitutional. No such finding has been made in this case (see J.S. App. 22a-24a, 26a), and this Court accordingly does not have jurisdiction over the appeal.

2. Treating the papers as a petition for a writ of certiorari (see 28 U.S.C. 2103), the Court should deny the petition.

a. Appellant asserts (J.S. 15) that the Small Business Administration discriminated against her on the basis of her sex and race in denying loan applications and defamed her by including false and damaging documents in her file.

In November 1964, the SBA granted appellant a \$6,000 loan to operate a dressmaking business. In November 1965, she defaulted on the loan and the Internal Revenue Service closed her business for non-payment of taxes (J.S. App. 22a n.1). The SBA demanded that appellant satisfy the outstanding debt in June 1966 and again in November 1968, but without success (Exs. J, L).<sup>1</sup> The SBA ultimately determined that appellant was judgment proof, charged off her loan with an unpaid balance of \$5,244.65, and ceased collection efforts (Ex. M). Meanwhile, in 1965, appellant sought another SBA loan, which was denied (J.S. App. 22a). In 1975 she again applied for a loan, this time in the amount of \$40,000 (Ex. P). The loan was denied in January 1975 because appellant was an established credit risk, lacked management experience, and was unlikely to attain her predicted earnings (Ex. R). She resubmitted the application, but it was rejected for essentially the same reasons in April and June 1975 (Exs. V, Y).

Appellant then filed this suit in the United States District Court for the Southern District of New York, alleging race and sex discrimination and claiming that the SBA had defamed her. The district court dismissed the discrimination claim on the government's motion for summary judgment, finding that the agency's decisions "were substantially supported" and that appellant had not "advanced even one fact suggestive of discrimination" (J.S. App. 23a-24a). The court dismissed the defamation claim for lack of subject matter jurisdiction because appellant had not filed an administrative claim as required by the Federal Tort Claims Act, 28 U.S.C.

<sup>1</sup>"Ex." refers to exhibits to the government's "Statement Pursuant to Rule 9(g)" filed in the district court.

2675(a) (J.S. App. 23a).<sup>2</sup> The court also held that appellant's cause of action for defamation was excluded from the Tort Claims Act by 28 U.S.C. 2680(h) and was thus barred by sovereign immunity (*ibid.*).

The court of appeals affirmed on the opinion of the district court (J.S. App. 26a) and denied a petition for rehearing (*id.* at 27a).

b. Appellant's discrimination claim has been determined to be without factual basis by the district court and the court of appeals, and further review by this Court is not warranted. *Berenyi v. Immigration Director*, 385 U.S. 630, 635 (1967).

Appellant's defamation claim, on the other hand, is barred for at least three reasons: as the courts below correctly held, the United States has not waived sovereign immunity as to defamation claims, the claim concerning the 1965 application was not brought within the statute of limitations, and the claim is premature. Appellant has made no attempt to rebut any of these conclusions.<sup>3</sup>

<sup>2</sup>The district court also held that all claims stemming from appellant's 1965 loan application were barred by the two-year statute of limitations of the Tort Claims Act, 28 U.S.C. 2401(b) (J.S. App. 23a).

<sup>3</sup>Appellant asserts (J.S. 9, 10, 13, 15) that the government should not have been permitted to amend its answer to assert the statute of limitations. This amendment was appropriate because appellant's original complaint did not make clear that her tort claim related to the 1965 loan. The trial court acted within its broad discretion in granting leave to amend the answer (Fed. R. Civ. P. 15(a)), particularly since appellant showed no prejudice as a result of the amendment.



It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

WADE H. MCCREE, JR.  
*Solicitor General*

JANUARY 1979

No. 78-809

Supreme Court, U. S.

FILED

FEB 7 1979

MICHAEL RODAK, JR., CLERK

*In the Supreme Court of the United States*

OCTOBER TERM, 1978

---

VENOLA WALTON, PLAINTIFF, APPELLANT

v.

SMALL BUSINESS ADMINISTRATION

---

*ON APPEAL FROM THE UNITED STATES COURT  
OF APPEALS FOR THE SECOND CIRCUIT*

---

OPPOSING BRIEF

---

VENOLA WALTON  
Plaintiff - Appellant, Pro se  
539 W. 148th Street  
New York, N.Y. 10031

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---

*In the Supreme Court of the United States*

OCTOBER TERM, 1978

---

No. 78-809

VENOLA WALTON, PLAINTIFF, APPELLANT

v.

SMALL BUSINESS ADMINISTRATION

---

*ON APPEAL FROM THE UNITED STATES COURT  
OF APPEALS FOR THE SECOND CIRCUIT*

---

**OPPOSING BRIEF**

---

The appellant opposes the appellee's motion to dismiss.

"Treating my jurisdictional statement as a petition for a writ of certiorari, the court should deny the petition."

The appellant asserts that this jurisdictional statement should not be treated as a petition for a writ of certiorari, but as a direct appeal.

The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by Title 28 U.S.C. 1252. Under this section, there are three prerequisites to the right to invoke the direct appeal provision of U.S.C. 1252:

1. The case must be a "civil action, suit, or pro-

ceeding." . . . and U.S.C. 1252 is not limited to actions governed by the Federal Rules of Civil Procedure.

2. The case must be one "to which the United States or any of its agencies, or any officer or employee thereof, as such officer or employee, is a party." . . . .

3. The lower court judgment must be against the validity of an act of congress. If the decision is in favor of the constitutionality of the act, no direct appeal to the Supreme Court lies under U.S.C. 1252. But the decision adverse to constitutionality may relate only to the application of the statute to particular facts . . . .

In my jurisdictional statement and appendices, I have provided this court with substantial evidence to prove that this case should be deemed important enough to warrant direct appeal to the Supreme Court.

The Defendant, stated in his motion on Page 2, second paragraph, that after my loan was denied in June, 1975, I filed this suit, in the United States District Court. That is incorrect. I first filed a complaint with Mr. Thomas S. Kleppe, Administrator, Small Business Administration, Washington, D.C.

See (J.S. App. 1a-21a) However, there is a mixup in these letters. Letters from (J. S. App. 16a-20a) are not in the proper sequence, and I beg the court to allow me to state their proper sequence, so the court may clearly understand the administrative agency's disposition of my complaint.

The letter at (J. S. App. 18a-20a) should be at (J. S. App. 16a-18a) and the letter at (J. S. App.

16a) should be a (J. S. App. 19a) and the letter at (J. S. App. 17a) should be at (J. S. App. 20a). And, of course, (J. S. App. 21a) is in its proper place.

These letters will prove to the court that it was after the S.B.A. Administrative Office findings, that this suit was filed in The United States District Court.

The Defendant asserts, that my original complaint did not make clear that my Tort claim related to the 1965 loan, thus making it appropriate to amend its answer to assert the statute of limitation. This can't possibly be true. My complaint, filed in all instances has been the same, perhaps more detailed in respondings.

The appellant, respectfully asks this court to review my original complaint, (J. S. App. 45a). I further ask this court to carefully review all of my jurisdictional statements and my appendices and review this case by direct Appeal.

Respectfully submitted,

Venola Walton, Appellant, Pro se

February 7th, 1979